

Attorney Docket # 1022-11

09/845,923

REMARKS

Claims 1 – 8, 10 – 22, 24 – 28 and 30 -32 are pending in this application with claims 1 – 3 and 20 being withdrawn from consideration. Claims 4, 5, 10 and 33 are amended by this response.

Applicant would like to thank the Examiner for the courtesy extended in the telephone interview on May 17, 2004 wherein a formal amendment to the claims was discussed in order to correct a typographical error and clarify that the “composition is able to abrade the site and circulate at least one of a toxin and venom out from said site”.

Rejection of Claims 4-8, 10 – 19, 21 – 22, 24 – 28 and 30 - 32 under 35 U.S.C. 112, first paragraph

Claims 4-8, 10 – 19, 21 - 22, 24 – 28 and 30 – 32 stand rejected under 35 U.S.C. 112, first paragraph for failing to comply with the written description requirement. Applicant assumes that the Examiner intended to reject claim 33 on the same grounds and thus, the response includes arguments for claims 33 as well.

The Examiner states that all claims either recite, or depend upon a claim that recites “carrier able to abrade the site and circulate at least one of a toxin and venom out from said site”. However, Applicant respectfully disagrees. Specifically, independent claims 13 and 18 include the limitation “an abrasive ingredient able to abrade the site and circulate at least one of a toxin and venom out from said site”. This limitation is discussed throughout the specification and specifically on page 6, lines 5 – 8 and page 7, lines 8 - 11 of the specification and thus it is respectfully submitted that claims 13 and 18 are fully supported by the specification. As claims 14 – 17 are dependent on claim 13, it is respectfully submitted that they are also fully supported by the specification. Therefore, it

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is respectfully submitted that the rejection with respect to claims 13 – 18 has been satisfied and should be withdrawn.

Additionally, claims 21, 30 and 32 also do not contain the rejected limitation as stated in the Office Action. In fact, in the previous amendment, claims 21, 30 and 32 were amended to include the limitation “said composition is able to abrade the site and circulate at least one of a toxin and venom out from the site”. As discussed above, support for this amendment is found throughout the specification and specifically on pages 6, lines 5 – 8 and page 7, lines 8 - 11 thereof. Thus, it is respectfully submitted that claims 21, 30 and 32 are fully supported by the specification. As claims 22 and 24 – 28 are dependent on claim 21 and claim 31 is dependent on claim 30, it is respectfully submitted that claims 22, 24 – 28 and 31 are also fully supported by the specification. Therefore, it is respectfully submitted that the rejection with respect to claims 21 – 22, 24 – 28, 30 – 32 has been satisfied and should be withdrawn.

Claims 4, 5, 10 and 33 have been formally amended to correct a typographical error to state “A pharmaceutical composition...consisting of an effective amount of an abrasive ingredient and a carrier, wherein said composition is able to abrade the site and circulate at least one of a toxin and venom out from said site”. This formal amendment was discussed with the Examiner in the above identified telephone interview and was made to clarify that “said composition is able to abrade the site and circulate at least one of a toxin and venom out from the said site” and not “the carrier”. Applicant respectfully submits, that support for this amendment can be found in amended claims 21, 30 and 32 as well as on page , lines 5 – 8 and page 7, lines 8 - 11 of the specification. As this limitation is found in claims 21, 30 and 32 which were amended in a prior response, Applicant respectfully submits that this limitation has been previously considered by the Examiner and thus, no new issues are raised by this amendment. Furthermore, as claims 6 – 8 is dependent on claims 4, claim 11 is dependent on claim 10 and claim 12 is dependent on claim 5, it is

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respectfully submitted that claims 6 – 8 and 11 – 12 are also fully supported by the specification. Thus, in view of the above remarks and amendments to the claims, it is respectfully submitted that this rejection with respect to claims 4 – 8, 10 – 12 and 33 has been satisfied and should be withdrawn.

In view of the above remarks, it is respectfully submitted that claims 4-8, 10 – 19, 21 – 22, 24 – 28 and 30 – 33 fully comply with the written description requirement of 35 USC 112, first paragraph. Thus, it is further respectfully submitted that this rejection has been satisfied and should be withdrawn.

Rejection of Claims 4-8, 10 – 19, 21 – 22, 24 – 28 and 30 - 32 under 35 U.S.C. 112, first paragraph

Claims 4-8, 10 – 19, 21 - 22, 24 – 28 and 30 – 33 stand rejected under 35 U.S.C. 112, first paragraph as not meeting the enablement requirement. Applicant assumes that the Examiner intended to reject claim 33 on the same grounds and thus the arguments regarding claim 33 are included in this response.

The Examiner rejected claims 4 – 8, 10 – 19, 21 – 22, 24 – 28 and 30 - 33 as not being enabling for “a carrier able to abrade the site and circulate at least one of a toxin and venom”. The claims have been amended for purposes of clarity to state that “said composition is able to abrade the site and circulate at least one of a toxin and venom”. The clarifying amendment to the claims thus removes the limitation that the carrier is able to abrade the site and circulate at least one of a toxin and venom”. In view of this clarifying amendment it is respectfully submitted that claims 4 – 8, 10 – 19, 21 – 22, 24 – 28 and 30 – 33 are fully enabled by the specification. Additionally, as this limitation was previously considered by the Examiner with regards to pending claims 13, 18, 20, 21 and 32, it is respectfully submitted that no new issues that would require a further search are raised by

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this amendment. Thus, it is respectfully submitted that this rejection has been satisfied and should be withdrawn.

No additional fee is believed due with this response. However, should a fee be due please charge the fee to Deposit Account No. 50-2828.

Based upon the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by Examiner's amendment, if the Examiner feels this would facilitate passage of the case to issuance.

Alternatively, should the Examiner have any questions, comments, or feel that a personal discussion might be helpful in advancing this case to allowance and issuance, she is cordially invited to contact Mr. Jack Jay Schwartz at 1350 Broadway, Suite 1510, New York, New York 10018, Tel. No. (212) 971-0416, so that the present application can receive an early notice of allowance. The address and telephone number for Jack J. Schwartz stated above is as listed on the original Power of Attorney.

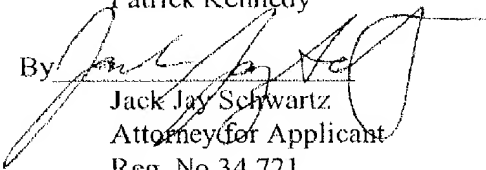
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In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
Patrick Kennedy

By


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Date: May 20, 2004

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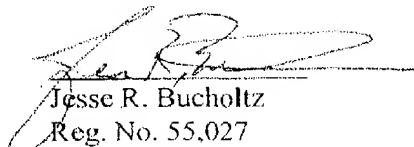
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Certificate of Facsimile Transmission

I hereby certify that this paper is being transmitted by facsimile transmission to Examiner Leith at facsimile telephone number (703) 872-9306 on Wednesday, May 21, 2004.

May 21, 2004

Date


Jesse R. Bucholtz
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